AMENDMENT TO THE CLAIMS

This listing of claims will replace all prior versions, and listing, of claims in the application:

Listing of Claims:

1-14. (Cancelled)

15. (Currently Amended) An apparatus for recording and reproducing to and from a writable disk, comprising:

a pickup writing input data and reading the written data to/from the writable disk;

a moving unit moving the pickup across the writable disk; and

a controller controlling the moving unit to move the pickup to a recordable position indicated by data recording information which was updated after a previous data recording, checking whether or not data has been recorded in an area following the indicated recordable position by examining the state of a recording surface state of the writable disk, and changing the recordable position for new data to another position based on the checked result, wherein the controller controls the pickup to write data necessary to close recorded data into a session if data has been recorded in said area following the indicated recordable position.

16. (Cancelled)

17. (Currently Amended) The apparatus set forth in claim 15, wherein the controller determines whether data has been recorded in said area following the

indicated recordable position based on whether or not a binary signal modulated by a predetermined modulatin method is detected.

18. (Cancelled)

19. (Currently Amended) The ~~system~~ apparatus set forth in claim 15, wherein the data recording information is provided in a lead-in area ~~of each program area~~ of the disk.

20. (New) A method for recording and reproducing to and from a writable disk, comprising:

(a) moving a pickup to a recordable position indicated by data recording information which was updated after a previous data recording;

(b) checking whether or not data has been recorded in an area following the indicated recordable position by examining the state of a recording surface state of the writable disk; and

(c) changing the recordable position for new data to another position based on the result of the step (b), and writing data necessary to close recorded data into a session if data has been recorded in said area following the indicated recordable position based on the result of the step (b).

21. (New) The method of claim 20, wherein the step (b) determines whether data has been recorded in said area following the indicated recordable position based on whether or not a binary signal modulated is detected.

22. (New) The method of claim 20, wherein the data recording information is provided in a lead-in area of the disk, so that the step (a) moves the pickup to the lead-in area to read the data recording information before moving the pickup to the recordable position.

23. (New) The method of claim 20, wherein the data recording information is provided in each lead-in area of each session of the disk, wherein the step (a) moves the pickup sequentially to each lead-in area to read each data recording information before moving the pickup to the recordable position.